

**3:12cv\_\_\_\_**  
**[ 3:01cr216]**

**Respondent.**

Based on such findings, the court concludes that petitioner has not asserted a colorable

claim inasmuch as under United States v. Powell, \_\_\_ F.3d \_\_\_, No. 11-6152 (4th Cir. Aug. 20, 2012), an enhanced minimum sentence under § 841(b)(1)(a) is a lawful sentence as it is within the unenhanced statutory maximum.

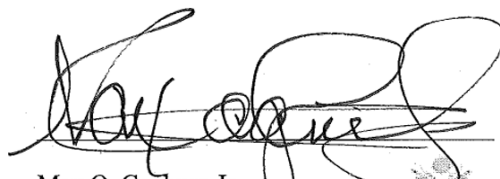
**ORDER**

**IT IS, THEREFORE, ORDERED** that

- (1) petitioner's claim of receiving an enhanced minimum sentence under 21 U.S.C. § 841(b)(1)(a) that is within the statutory maximum, such claim is summarily **DENIED**;
- (2) the *pro se* motion for relief under Simmons (#1) herein (and (#363) in 3:01cr216) is **DENIED**; and
- (3) this action is **TERMINATED**.

The Clerk of Court is instructed to send a copy of this Order to the United States Attorney, attention AUSA Ray.

Signed: November 5, 2012



Max O. Cogburn Jr.  
United States District Judge